

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
SOUTHERN DISTRICT

DECEMBER TERM, 2023

STATE OF NEW HAMPSHIRE

V.

DANIELLE DAUPHINAIS

226-2021-CR-00944

**STATE'S RESPONSE TO DEFENDANT'S MOTION TO SET/RESET CERTAIN
DEADLINES CONCERNING EXPERT WITNESSES**

NOW COMES the State of New Hampshire, by and through its attorney, the Office of the Attorney General, and respectfully responds to the Defendant's Motion to Set/Reset Certain Deadlines Concerning Expert Witnesses. The State hereby requests that this Honorable Court grant the defendant's request for an extension of time to disclose expert witnesses but deny the defendant's request for specific dates as included in the motion. The State requests that the Court instead grant the parties request for an amended, assented-to scheduling order. In support of this position, the State responds as follows:

1. On April 18, 2022, the defendant was indicted for first-degree murder and related charges for killing E.L. (Age 5) in or around September of 2021 in Merrimack, New Hampshire. The defendant was arraigned on the murder charges on May 14, 2022.
2. On November 1, 2022, the parties submitted an assented-to structuring proposal which guided the relevant deadlines for the case including a trial date scheduled for January 2024.
3. On May 18, 2023, defense counsel advised the State that they needed additional time related to the disclosure of two potential expert witnesses and requested a 60-day extension of their deadline to file expert witness disclosures. The State assented to that request. Defense

counsel's assented-to Motion to Extend their expert witness disclosure date was granted by the Court.

4. On June 7, 2023, defense counsel filed a Motion to Continue all deadlines and sought a May 2024 trial date. The State objected to the selection of that date but recognized that the case would need to be continued due to substitution of defense counsel. Subsequently, on August 30, 2023, the parties filed an assented-to structuring proposal that was granted by the Court on September 1, 2023.

5. On December 8, 2023, defense counsel filed their *instant* motion to extend the deadline for defense expert disclosures and to establish a deadline for motions to exclude expert witnesses. The State agrees to an extension of certain deadlines and to the establishment of a deadline for the filing of *Daubert* motions. However, the State objects to the dates for these deadlines requested by the defendant in the motion filing.

6. Based on communications with defense counsel over electronic mail and over the phone, the parties have agreed on certain changes to the assented-to scheduling order which address the concerns raised by defense counsel in their motion. The proposed changes are as follows:

- a. The new deadline for defense expert witness disclosures is February 12, 2024.
- b. The new deadline for State's rebuttal expert disclosures is March 13, 2024.
- c. The new deadline for pretrial evidentiary motions, including motions in *limine* is April 15, 2024.
- d. The new deadline for depositions of witnesses is May 15, 2024.
- e. A deadline for the filing of *Daubert* motions shall be set for June 19, 2024.
- f. All other deadlines shall remain the same.

7. In conjunction with this response, the State is filing a proposed, amended assented-to scheduling order.

WHEREFORE, the Attorney General for the State of New Hampshire respectfully requests that this Honorable Court:

- A. Grant the parties, proposed, amended assented-to scheduling order, and;
- B. Grant such further relief as may be just and proper.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

John M. Formella
Attorney General

December 15, 2023

/s/ Bethany J Durand

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was provided to counsel for the defendant, Attorney Jaye Rancourt and Attorney Benjamin Faulkner, through the Court's e-filing system.

December 15, 2023

/s/ Bethany J Durand
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